
**Housing, Community Development &
Veterans Committee**

HB 1386

Brief Description: Creating a military benefit zone program.

Sponsors: Representatives Kilduff, Young, Kirby, Volz, Reeves, Leavitt and Ortiz-Self.

Brief Summary of Bill

- Allows sponsoring communities within two miles of five military installations to create Military Benefit Zones (MBZs) to allow for certain financing options for public improvements.
- Allows communities that create MBZs to apply to the Department of Commerce for a project award, the amount of which may then be collected through an additional sales and use tax credited against state sales and use tax.
- Provides communities that create MBZs with an additional property tax allocation based on increased property values within the MBZ.

Hearing Date: 1/30/19

Staff: Serena Dolly (786-7150).

Background:

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Property Tax.

All real and personal property in the state is subject to property tax each year based on its value, unless specific exemption is provided by law. Property taxes are levied by the state and many local jurisdictions, including counties, cities, and local school, fire, park, and library districts. Property taxes are collected by the county and distributed to the levying jurisdiction. The county assessor determines the value of real and personal property for tax purposes, and calculates and certifies levy rates for most taxing districts. The Washington Constitution requires that taxes be uniform within a class of property.

Tax Increment Financing.

Tax increment financing (TIF) is a method of redistributing property tax collections within designated areas to finance infrastructure improvements and promote economic development. Typically, under TIF, a local government issues bonds to finance public improvements. To repay its bondholders, the local government is permitted to draw upon regular property tax revenue collected from property owners inside a special district surrounding the site of the public improvements.

Construction of public improvements may lead to an increase in the market values of nearby properties. Increases in value can result in increased property taxes for each taxing district that includes property near the public improvement. Under TIF, the local government making the improvement gets all of the resulting tax revenue increase. For example, if a city makes an improvement that raises nearby property values, the city gets all of the resulting increase in property taxes, rather than sharing that increase with the state, county, and other local districts under the normal property tax allocation system.

Attempts to authorize the use of state property tax revenue in Washington to finance such development have been struck down by the voters and the courts. The main legal impediments under the State Constitution include: the requirement that all property taxes must be uniform on the same class property within the territorial limits of the authority levying the tax; the prohibition on the lending of state credit; and the dedication of state property tax revenues to fund the common schools.

Over the past two decades, several programs that have many of the characteristics of tax increment financing have been implemented in Washington State. These include Community Revitalization Financing (CRF), the Local Infrastructure Financing Tool (LIFT) Program, and the Local Revitalization Financing (LRF) Program, which allow counties, cities, and port districts to create a tax increment area and finance public improvements within the area by using increased revenues from local property taxes, sales and use taxes, or both. No portion of the state property tax is diverted to the tax increment area under these programs, eliminating the state Constitutional issue raised by the Supreme Court. Each of these programs have been implemented by different jurisdictions within the state. No state funding is currently available for new applicants to the programs.

Summary of Bill:

Creation of a Military Benefit Zone.

Communities within two miles of the boundaries of Joint Base Lewis-McChord, Naval Base Kitsap, Naval Station Everett, Fairchild Air Force Base, and Naval Air Station Whidbey Island

may create a Military Benefit Zone (MBZ) allowing them to access or apply for new funding options to complete certain public improvement projects. A sponsoring military community, defined as a city, town, county, or combination thereof, creates an MBZ through adoption of an ordinance. Before adopting such an ordinance, the sponsoring military community must provide notice to all taxing districts within the boundaries of the proposed MBZ of its intent to create an MBZ and hold a public hearing.

The MBZ may not share any geographic area with certain other benefit zones or development areas and must be comprised of contiguous tracts of land, without islands of property, wholly within two miles of JBLM. The MBZ may not contain more than 25 percent of the total assessed value of the taxable real property in the sponsoring military community.

Once an MBZ is created, the sponsoring military community may authorize the use of local military benefit financing, defined as revenues from local public sources or additional sales and use tax dedicated to pay for bonds, to finance public improvement projects within the MBZ.

Other local governments that have an MBZ within their geographic boundaries may participate in military benefit financing with the sponsoring military community by entering into an interlocal agreement, after which the other participating local government may dedicate local property tax and sales and use tax revenue to finance public improvements within an MBZ.

If a local government with an MBZ within its geographic boundaries does not want to participate in military benefit financing, that local government must adopt an ordinance and notify the sponsoring military community that it will not be a participating local government prior to the creation of the MBZ.

Financing of Public Improvements.

Military Benefit Zone financing must be used to finance public improvements, including: street, road, bridge, and rail construction and maintenance; water and sewer system construction and improvements; sidewalks, streetlights, landscaping, and streetscaping; parking, terminal, and dock facilities; park and ride facilities of a transit authority; park facilities, recreational areas, and environmental remediation; stormwater and drainage management systems; electric, gas, fiber, and other utility infrastructures; and historic preservation.

A local government using MBZ financing must:

- adopt an ordinance specifying the public improvements to be financed;
- enter into a contract with, or have received a letter of intent from, a private developer relating to the development of private improvements within the MBZ;
- anticipate private development will be consistent with the countywide planning policy adopted by the county and the local government's comprehensive development plan;
- not use military benefit financing to finance the costs related to certain improvements in a public facilities district;
- make a finding that military benefit financing: (a) will not be used to relocate a business from elsewhere in Washington into the MBZ unless there is convincing evidence the business will otherwise leave Washington; (b) will improve the viability of existing businesses in the MBZ; and (c) will be used exclusively in areas in need of economic development or redevelopment that would likely not otherwise occur without such financing; and

- find that the proposed public improvements are likely to: (a) increase private investment within the MBZ; (b) increase employment within the MBZ; (c) generate increases in state and local sales and use tax revenues; and (d) support the needs of the military for housing, services, and quality of life.

A sponsoring military community may incur general indebtedness, including the issuing of general obligation bonds, to finance public improvements with an MBZ.

Application for Project Award.

Once a sponsoring military community has created an MBZ, it may apply to the Department of Commerce (COM) to determine a project award amount, which includes a state contribution of funds to the up-front financing of public improvement projects.

The COM must begin accepting applications on August 1, 2019. The COM will consider applications and approve project award amounts within 60 days of receipt of an application. The COM may not approve project awards in excess of the annual state contribution limit of \$5 million statewide.

In addition, the COM will approve demonstration projects submitted by September 1, 2019, to determine the feasibility of military benefit financing. The COM must approve one demonstration project in the City of Lakewood for at least \$1 million and any other demonstration project that meets the requirements of an MBZ. Demonstration project awards are not included in the annual state contribution limit.

Imposition of an Additional Sales and Use Tax.

A sponsoring military community approved for a project award may impose a sales and use tax for the sole purpose of paying debt service on bonds issued for financing public improvements. The revenue from the additional sales and use tax is credited against the state sales and use tax to which the state would otherwise be entitled to receive.

The additional sales and use tax rate cannot exceed the lesser of:

- the state sales tax rate of 6.5% less the aggregate rate of various other types of local sales and use tax imposed by any taxing authority on the same taxable event;
- or the rate as determined by the local government, in consultation with the DOR, reasonably necessary to receive the project award amount over 10 months.

Thus, the additional sales and use tax cannot result in a higher total sales or use tax being paid on the same taxable event. Further, the additional sales and use tax expires at the earlier of the date that the bonds are retired or 25 years after the tax is first imposed.

The DOR approves the amount of the revenue collected from the additional sales and use tax that will be distributed annually to each local government. The annual distribution will be the lesser of \$500,000, the project award amount, or the amount dedicated to payment of bonds.

During the fiscal year, if either: (a) revenue from the additional sales and use tax reaches the amount of annual distributions approved by the DOR for a particular local government; or (b) the amount of revenue from all additional sales and use taxes distributed to all sponsoring local governments reaches the annual state contribution limit, the DOR will stop distributing revenue

to the applicable local government until the beginning of the next fiscal year. The state is entitled to retain any excess revenue as part of the State General Fund.

Local Property Tax Allocation Revenue.

Beginning in the second calendar year following creation of an MBZ, a sponsoring local government may receive an additional portion of the regular property taxes levied by it and participating taxing districts. The additional allocation is equal to the regular property taxes imposed on 75 percent of the increased value resulting from new construction or improvements initiated after creation of the MBZ. For construction or improvements that do not consist of an entire building, the additional allocation is based only on the increased value in the first 12 months following creation of the MBZ.

The additional property tax allocations may only be used to finance public improvement costs within the military benefit zone. The additional allocation must cease when no longer obligated to pay the cost of public improvements.

Appropriation: None.

Fiscal Note: Requested on January 21, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.